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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

Crl.Rev.Pet.No. 668 of 1998()

CRA.218/1996 of FIRST ADDL. SESSIONS COURT, THRISSUR
SC.139/1995 of PRINCIPAL ASSISTANT SESSIONS COURT, IRINJALAKUDA

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REVN. PETITIONER/APPELLANT/ACCUSED:

JOY, S/O.NEDUMPARAMBIL MICHAEL,
NADAVARAMBU, VELUKKARA VILLAGE.

BY ADV. SRI.P.K.ASHOKAN
SRI.K.S.SAJEEV KUMAR

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HGIH COURT OF
KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR MR.P.RAVINDRA BABU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN, Ag.C.J.

Crl.R.P.No.668 of 1998

Dated, this the 21st day of February, 2007

ORDER

Heard learned counsel for the revision petitioner and the Public Prosecutor.

2. Revision petitioner was convicted for offence punishable under Section 333 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1000/- and in default of payment of fine to undergo simple imprisonment for three months more. However, in appeal the learned Sessions Judge reduced the sentence to simple imprisonment for six months and for payment of fine as awarded by the trial court.

3. Counsel for the petitioner seriously contested the various findings rendered by the trial court as well as the appellate court. Going through the evidence and the records in the case and after hearing the learned counsel on either side I find no reason to interfere with the conviction entered by the courts below. However, counsel for the petitioner pleaded that the jail sentence may be converted into fine. It was pointed out by the learned

counsel that initially petitioner was charge sheeted only under Section 332 IPC in the event of which imprisonment was not mandatory. However, due to various reasons the charge was later converted into 333 IPC. The incident had occurred on 5.2.1995. Twelve years have elapsed. Petitioner is the sole breadwinner of his family. If at this stage the conviction and sentence are confirmed the petitioner will have to undergo jail sentence which will cause serious injuries to him and his family.

4. Taking note of all aspects of the matter and taking into consideration the fact that there was no previous conviction, I am inclined to modify the sentence by sentencing him to undergo civil imprisonment for a day till the rising of the court and also a total fine of Rs.5000/- (Rupees five thousand) to be deposited before the trial court within two months from today. In case the fine amount is not paid within the above period the petitioner will have to undergo simple imprisonment for one month.

Sd-
K.S.RADHAKRISHNAN,
Ag.CHIEF JUSTICE.

vns

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